

AMENDED IN ASSEMBLY APRIL 20, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2924

Introduced by Assembly Member Arambula

February 24, 2006

An act to ~~add Section 14075.5 to the Financial Code, to add Section 63029 to the Government Code, to amend Sections 42823 and 42824 of the Health and Safety Code, and to add Sections 17053.97, 17053.98, 17053.99, 17277, 23697, 23698, 23699, and 24349.5 to the Revenue and Taxation Code,~~ relating to environmental protection incentives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2924, as amended, Arambula. Environmental ~~protection incentives.~~ *protection: financial alternatives.*

Existing law establishes within the Business, Transportation and Housing Agency the California Small Business Loan Guarantee Program, whereby financial development corporations, as provided, loan money to or guarantee loans for small business, as specified. Existing law establishes the California Infrastructure and Economic Development Bank within the Business, Transportation and Housing Agency to make loans and finance infrastructure.

This bill would authorize an economic development corporation to provide loan guarantees for capital expenditures that reduce greenhouse gas emissions or generate renewable energy if certain conditions are met. This bill would state the intent of the Legislature that 20% of the funds annually appropriated for small business loan guarantees be dedicated for these purposes. This bill would also authorize the California Infrastructure and Economic Development

~~Bank to make low-interest loans for equipment that reduces greenhouse gas emissions.~~

~~The Personal Income Tax Law and the Corporation Tax Law authorize various deductions and credits used to compute the taxes imposed by those laws.~~

~~This bill would authorize credits against those taxes for each taxable year beginning on or after January 1, 2007, for 15% of the amount paid or incurred during the taxable year for qualified capital expenditures and qualified research expenses, as defined, and 10% of the amount paid or incurred during the taxable year for qualified capital investments, as defined. This bill would also allow a taxpayer to take a deduction for depreciation with respect to qualified capital expenditures and qualified capital investments over a 3-year period, as provided.~~

Existing law establishes the California Climate Action Registry to, among other things, adopt standards for verifying emissions reductions, adopt a list of approved auditors that would verify emission reductions, establish emissions reduction targets, design and implement efficiency improvement plans, and maintain a record of all emission baselines and reductions. Existing law provides that participation in the registry is voluntary, but requires the registry recognize, publicize, and promote entities that participate in the registry.

~~This bill would require any person or entity that receives a loan guarantee, a low-interest loan, or a tax credit under the bill to register with the California Climate Action Registry and funding from the state for reducing greenhouse gas emissions to report its greenhouse gas emissions, as provided. This bill would also require the registry to report to the Legislature annually regarding greenhouse gas emissions, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Energy Independence and Climate Mitigation Investment Act of
- 3 2006.
- 4 SEC. 2. The Legislature finds and declares both of the
- 5 following:

1 (a) The increased costs of energy, combined with the physical,
2 environmental, and regulatory risks associated with climate
3 change, have resulted in a significant challenge for California
4 businesses.

5 (b) In order for California companies to remain competitive in
6 the global marketplace, it is necessary and appropriate for the
7 state to provide ~~incentives~~ *financial alternatives* to businesses to
8 reduce greenhouse gas emissions and increase our energy
9 independence.

10 SEC. 3. ~~Section 14075.5 is added to the Financial Code, to~~
11 ~~read:~~

12 ~~14075.5. (a) A corporation may provide loan guarantees for~~
13 ~~capital expenditures that reduce air emissions or generate~~
14 ~~renewable energy if the corporation determines all of the~~
15 ~~following:~~

16 ~~(1) That the loan applicant is creditworthy and meets the~~
17 ~~underwriting standards otherwise required under the loan~~
18 ~~guarantee program.~~

19 ~~(2) That an alternative loan at a market interest rate is not~~
20 ~~available to the applicant.~~

21 ~~(3) That state income tax credits do not benefit the applicant in~~
22 ~~an amount that is sufficient for the applicant to justify the~~
23 ~~expenditure.~~

24 ~~(b) The Business, Transportation and Housing Agency, in~~
25 ~~consultation with the State Air Resources Board and the State~~
26 ~~Energy Resources Conservation and Development Commission,~~
27 ~~shall determine whether a capital expenditure meets the~~
28 ~~requirements of subdivision (a).~~

29 ~~(c) Notwithstanding any other law, it is the intent of the~~
30 ~~Legislature that, for each fiscal year beginning before July 1,~~
31 ~~2012, 20 percent of the funds appropriated for the purposes of~~
32 ~~this article be used for the purposes described in subdivision (a).~~

33 SEC. 4. ~~Section 63029 is added to the Government Code, to~~
34 ~~read:~~

35 ~~63029. The bank may make loans at interest rates that are~~
36 ~~below market interest rates if all of the following conditions are~~
37 ~~met:~~

38 ~~(a) The loan applicant will use the loan proceeds to purchase~~
39 ~~or retrofit equipment that will directly result in the reduction of~~
40 ~~greenhouse gas emissions. The bank, in consultation with the~~

~~State Air Resources Board and the State Energy Resources Conservation and Development Commission, shall determine whether the equipment meets the requirement of this subdivision.~~

~~(b) The bank determines all of the following:~~

~~(1) That the applicant has the ability to repay the loan.~~

~~(2) That an alternative loan at a market interest rate is not available to the applicant.~~

~~(3) That state income tax credits do not benefit the applicant in an amount that is sufficient for the applicant to justify the expenditure.~~

~~SEC. 5.~~

SEC. 3. Section 42823 of the Health and Safety Code is amended to read:

42823. The registry shall perform all of the following functions:

(a) Provide participants with referrals to approved providers for technical assistance and advice, upon the request of a participant, on any or all of the following:

(1) Designing programs to establish greenhouse gas emissions baselines and to monitor, estimate, calculate, report, and certify greenhouse gas emissions.

(2) Establishing emissions reduction goals based on international or federal best practices for specific industries and economic sectors.

(3) Designing and implementing organization-specific plans that improve energy efficiency or utilize renewable energy, or both, and that are capable of achieving emission reduction targets.

(4) Designing plans for the conservation and management of native forest reservoirs as a means to assist participants in attaining emission reduction goals and reporting annual emissions results.

(b) In coordination with the State Energy Resources Conservation and Development Commission, the registry shall adopt and periodically update a list of organizations recognized by the state as qualified to provide the detailed technical assistance and advice in subdivision (a) and assist participants in identifying and selecting providers that have expertise applicable to each participant's circumstances. The registry shall coordinate with the Department of Forestry and Fire Protection and the State

1 Board of Forestry and Fire Protection to provide referrals to
2 providers for purposes of paragraph (4) of subdivision (a).

3 (c) The registry shall adopt procedures and protocols for the
4 reporting and certification of greenhouse gas emission reductions
5 resulting from a project or an action of a participant. A
6 participant shall report emission reductions as a separate item in
7 its annual emissions results.

8 (d) In coordination with the Resources Agency and consistent
9 with the data and information acquired and developed pursuant to
10 subdivision (b) of Section 25730 of the Public Resources Code,
11 the registry shall adopt procedures and protocols for the
12 monitoring, estimating, calculating, reporting, and certifying of
13 carbon stocks and carbon dioxide emissions resulting from the
14 conservation and conservation-based management, including
15 reforestation, of native forest reservoirs in California in order to
16 permit participants to include the results of those activities as a
17 participant's registered emissions results, or as a part thereof.
18 Procedures and protocols shall require, at a minimum, that those
19 forestry activities meet the following criteria in order to be
20 reported as a participant's emissions results, or as a part thereof:

21 (1) Forestry activities that are reported as a participant's
22 emissions results, or as a part thereof, shall be based on forest
23 management practices within a defined project area that exceed
24 applicable federal, state, and local land use laws and regulations,
25 including, but not limited to, the Z'berg-Nejedly Forest Practice
26 Act of 1973 (Chapter 8 (commencing with Section 4511) of Part
27 2 of Division 4 of the Public Resources Code). Applicable
28 federal, state, and local land use laws and regulations shall be
29 those in effect each time a participant registers a defined project
30 area in the registry.

31 (2) Forestry activities that are reported as a participant's
32 emissions results, or a part thereof, shall occur on forestland that
33 is permanently dedicated to forest use through a restriction,
34 granted in perpetuity, on the use that may be made of real
35 property that is consistent with the conservation purposes listed
36 in Section 170(h)(4)(A)(ii) and (iii) of Title 26 of the United
37 States Code.

38 (3) Forestry activities reported as emissions results, or as a
39 part thereof, shall reflect the amount of time that net carbon gains
40 are stored.

1 (4) Forestry activities maintain and promote native forest
2 types.

3 (5) If emissions results are derived from forest lands
4 undergoing harvest and regeneration, those results are derived
5 from natural forest management practices.

6 (e) Adopt procedures and protocols for certification of
7 reported baseline emissions and emissions results. When
8 adopting procedures and protocols for the certification, the
9 registry shall consider the availability and suitability of
10 simplified techniques and tools.

11 (f) Qualify third-party organizations that have the capability to
12 certify reported baseline emissions and emissions results, and
13 that are capable of certifying the participant-reported results as
14 provided in this chapter.

15 (g) Adopt procedures and protocols, including a uniform
16 format for reporting emissions baselines and emissions results to
17 facilitate their recognition in any future regulatory regime.

18 (h) Maintain a record of all certified greenhouse gas emissions
19 baselines and emissions results. Separate records shall be kept for
20 direct and indirect emissions results. The public shall have access
21 to this record, except for any portion of the data or information
22 that is exempt from disclosure pursuant to the California Public
23 Records Act (Chapter 3.5 (commencing with Section 6250) of
24 Division 7 of Title 1 of the Government Code).

25 (i) Encourage organizations from various sectors of the state's
26 economy, and those from various geographic regions of the state,
27 to report emissions, establish baselines and reduction targets, and
28 implement efficiency improvement and renewable energy
29 programs to achieve those targets.

30 (j) Recognize, publicize, and promote participants.

31 (k) In coordination with the State Energy Resources
32 Conservation and Development Commission and the state board,
33 adopt industry-specific reporting metrics at one or more public
34 meetings.

35 (l) In consultation with the state board, adopt procedures and
36 protocols for the reporting and certification of reductions in
37 emissions of greenhouse gases, to the extent permitted by state
38 and federal law, for those reductions achieved prior to the
39 operative date of the regulations adopted pursuant to subdivision
40 (a) of Section 43018.5.

(m) On or before January 15, 2008, and on or before January 15 of each year thereafter, report to the Legislature on California's progress in meeting its greenhouse gas emission standards by registered companies. *the existing programs available through the state that are available to assist businesses in financing greenhouse gas reductions. The report shall include, at a minimum, the current funding levels, the types of assistance provided, the average size of loan, grant, or other financial assistance, and whether the programs had unused funds at the end of the fiscal year.*

~~SEC. 6.~~

SEC. 4. Section 42824 of the Health and Safety Code is amended to read:

42824. (a) Except as provided in subdivision (b), participation in the registry is voluntary, and participants may withdraw at any time. If participants cease, and then resume participation, they will be expected to fill in any interim emissions information or set a new baseline. Any entity conducting business in the state may register its emissions results, including emissions generated outside of the state, on an ~~entity-wide~~ *entitywide* basis with the registry, and may utilize the services of the registry.

~~(b) (1) A person or entity that does any of the following shall participate in the registry:~~

~~(A) Receives a loan guarantee under Section 14075.5 of the Financial Code.~~

~~(B) Receives a loan under Section 63029 of the Government Code.~~

~~(C) Receives a tax credit under Section 17053.97, 17053.98, 17053.99, 23697, 23698, or 23699 of the Revenue and Taxation Code.~~

~~(2)~~

(b) Notwithstanding any other law, a person or entity that ~~is required under paragraph (1) to participate in the registry shall receives funding from the state for reducing greenhouse gas emissions shall~~ do both of the following:

~~(A)~~

(1) Report its greenhouse gas emissions under either the general reporting protocol or a reporting protocol that is specific to the industry of the person or entity.

1 ~~(B)~~

2 (2) Have a third party certify any reduction in greenhouse gas
3 emissions by the person or entity and require that third party to
4 maintain documentation of these emission reductions for at least
5 five years.

6 ~~SEC. 7. Section 17053.97 is added to the Revenue and~~
7 ~~Taxation Code, to read:~~

8 ~~17053.97. (a) For each taxable year beginning on or after~~
9 ~~January 1, 2007, there shall be allowed as a credit against the~~
10 ~~“net tax,” as defined in Section 17039, an amount equal to 15~~
11 ~~percent of the amount paid or incurred during the taxable year for~~
12 ~~qualified capital expenditures.~~

13 ~~(b) For purposes of this section, the following terms have the~~
14 ~~following meanings:~~

15 ~~(1) “Qualified capital expenditures” means an engine, boiler,~~
16 ~~or generator that measurably reduces greenhouse gas emissions~~
17 ~~from a qualified facility.~~

18 ~~(2) “Qualified facility” means both of the following:~~

19 ~~(A) An existing facility of the taxpayer.~~

20 ~~(B) The expansion of an existing facility of the taxpayer,~~
21 ~~which expansion is in the same location as, or adjacent to, an~~
22 ~~existing facility of the taxpayer.~~

23 ~~(c) In the case where the credit allowed by this section exceeds~~
24 ~~the “net tax,” the excess may be carried over to reduce the “net~~
25 ~~tax” in the following year, and succeeding years if necessary,~~
26 ~~until the credit is exhausted.~~

27 ~~SEC. 8. Section 17053.98 is added to the Revenue and~~
28 ~~Taxation Code, to read:~~

29 ~~17053.98. (a) For each taxable year beginning on or after~~
30 ~~January 1, 2007, there shall be allowed as a credit against the~~
31 ~~“net tax,” as defined in Section 17039, an amount equal to 10~~
32 ~~percent of the amount paid or incurred during the taxable year for~~
33 ~~qualified capital investments.~~

34 ~~(b) For purposes of this section, “qualified capital~~
35 ~~investments” means equipment used to produce, generate, or~~
36 ~~store renewable energy from biomass, solar, wind, and hydrogen~~
37 ~~sources.~~

38 ~~(c) Notwithstanding any other law, a taxpayer that takes the~~
39 ~~credit allowed by this section shall not be allowed other credits~~

1 ~~allowed under this part for renewable energy technology, except~~
2 ~~for the credit allowed by Section 17053.99.~~

3 ~~(d) In the case where the credit allowed by this section~~
4 ~~exceeds the “net tax,” the excess may be carried over to reduce~~
5 ~~the “net tax” in the following year, and succeeding years if~~
6 ~~necessary, until the credit is exhausted.~~

7 ~~SEC. 9. Section 17053.99 is added to the Revenue and~~
8 ~~Taxation Code, to read:~~

9 ~~17053.99. (a) For each taxable year beginning on or after~~
10 ~~January 1, 2007, there shall be allowed as a credit against the~~
11 ~~“net tax,” as defined in Section 17039, an amount equal to 15~~
12 ~~percent of the amount paid or incurred during the taxable year for~~
13 ~~qualified research expenses.~~

14 ~~(b) For purposes of this section, the following terms have the~~
15 ~~following meanings:~~

16 ~~(1) “Qualified research expenses” means the amount paid or~~
17 ~~incurred during the taxable year for research, approved and~~
18 ~~selected by the California Energy Commission under the Public~~
19 ~~Interest Energy Research Program, on renewable energy~~
20 ~~technologies.~~

21 ~~(2) “Renewable energy technologies” means technologies that~~
22 ~~generate energy from biomass, solar, wind, and hydrogen.~~

23 ~~(c) Notwithstanding any other law, a taxpayer that takes the~~
24 ~~credit allowed by this section shall not be allowed other credits~~
25 ~~allowed under this part for renewable energy technology, except~~
26 ~~for the credit allowed by Section 17053.98.~~

27 ~~(d) In the case where the credit allowed by this section~~
28 ~~exceeds the “net tax,” the excess may be carried over to reduce~~
29 ~~the “net tax” in the following year, and succeeding years if~~
30 ~~necessary, until the credit is exhausted.~~

31 ~~SEC. 10. Section 17277 is added to the Revenue and~~
32 ~~Taxation Code, to read:~~

33 ~~17277. In lieu of any other method of depreciation allowed by~~
34 ~~this part, in the case of any qualified capital expenditures, as~~
35 ~~defined in Section 17053.97, and any qualified capital~~
36 ~~investment, as defined in Section 17053.98, the taxpayer may~~
37 ~~elect to take a deduction for depreciation for the entire amount of~~
38 ~~these expenditures and investments in three years, commencing~~
39 ~~with the year the expenditures and investments are paid or~~

1 incurred and each of the two subsequent years, using the straight
2 line method of depreciation.

3 SEC. 11. ~~Section 23697 is added to the Revenue and~~
4 ~~Taxation Code, to read:~~

5 23697. (a) ~~For each taxable year beginning on or after~~
6 ~~January 1, 2007, there shall be allowed as a credit against the~~
7 ~~“tax,” as defined in Section 23036, an amount equal to 15 percent~~
8 ~~of the amount paid or incurred during the taxable year for~~
9 ~~qualified capital expenditures.~~

10 (b) ~~For purposes of this section, the following terms have the~~
11 ~~following meanings:~~

12 (1) ~~“Qualified capital expenditures” means an engine, boiler,~~
13 ~~or generator that measurably reduces greenhouse gas emissions~~
14 ~~from a qualified facility.~~

15 (2) ~~“Qualified facility” means both of the following:~~

16 (A) ~~An existing facility of the taxpayer.~~

17 (B) ~~The expansion of an existing facility of the taxpayer,~~
18 ~~which expansion is in the same location as, or adjacent to, an~~
19 ~~existing facility of the taxpayer.~~

20 (c) ~~In the case where the credit allowed by this section exceeds~~
21 ~~the “tax,” the excess may be carried over to reduce the “tax” in~~
22 ~~the following year, and succeeding years if necessary, until the~~
23 ~~credit is exhausted.~~

24 SEC. 12. ~~Section 23698 is added to the Revenue and~~
25 ~~Taxation Code, to read:~~

26 23698. (a) ~~For each taxable year beginning on or after~~
27 ~~January 1, 2007, there shall be allowed as a credit against the~~
28 ~~“tax,” as defined in Section 23036, an amount equal to 10 percent~~
29 ~~of the amount paid or incurred during the taxable year for~~
30 ~~qualified capital investments.~~

31 (b) ~~For purposes of this section, “qualified capital~~
32 ~~investments” means equipment used to produce, generate, or~~
33 ~~store energy from renewable resources including, but not limited~~
34 ~~to, biomass, solar, wind, and hydrogen.~~

35 (c) ~~Notwithstanding any other law, a taxpayer that takes the~~
36 ~~credit allowed by this section shall not be allowed other credits~~
37 ~~allowed under this part for renewable energy technology, except~~
38 ~~for the credit allowed by Section 23699.~~

39 (d) ~~In the case where the credit allowed by this section~~
40 ~~exceeds the “tax,” the excess may be carried over to reduce the~~

1 ~~“tax” in the following year, and succeeding years if necessary,~~
2 ~~until the credit is exhausted.~~

3 ~~SEC. 13. Section 23699 is added to the Revenue and~~
4 ~~Taxation Code, to read:~~

5 ~~23699. (a) For each taxable year beginning on or after~~
6 ~~January 1, 2007, there shall be allowed as a credit against the~~
7 ~~“tax,” as defined in Section 23036, an amount equal to 15 percent~~
8 ~~of the amount paid or incurred during the taxable year for~~
9 ~~qualified research expenses.~~

10 ~~(b) For purposes of this section, the following terms have the~~
11 ~~following meanings:~~

12 ~~(1) “Qualified research expenses” means the amount paid or~~
13 ~~incurred during the taxable year for research, approved and~~
14 ~~selected by the California Energy Commission under the Public~~
15 ~~Interest Energy Research Program, on renewable energy~~
16 ~~technologies.~~

17 ~~(2) “Renewable energy technologies” means technologies that~~
18 ~~generate energy from biomass, solar, wind, and hydrogen.~~

19 ~~(c) Notwithstanding any other law, a taxpayer that takes the~~
20 ~~credit allowed by this section shall not be allowed other credits~~
21 ~~allowed under this part for renewable energy technology, except~~
22 ~~for the credit allowed by Section 23698.~~

23 ~~(d) In the case where the credit allowed by this section~~
24 ~~exceeds the “tax,” the excess may be carried over to reduce the~~
25 ~~“tax” in the following year, and succeeding years if necessary,~~
26 ~~until the credit is exhausted.~~

27 ~~SEC. 14. Section 24349.5 is added to the Revenue and~~
28 ~~Taxation Code, to read:~~

29 ~~24349.5. In lieu of any other method of depreciation allowed~~
30 ~~by this part, in the case of any qualified capital expenditures, as~~
31 ~~defined in Section 23697, and any qualified capital investment,~~
32 ~~as defined in Section 23698, the taxpayer may elect to take a~~
33 ~~deduction for depreciation for the entire amount of these~~
34 ~~expenditures and investments in three years, commencing with~~
35 ~~the year the expenditures and investments are paid or incurred~~
36 ~~and each of the two subsequent years, using the straight line~~
37 ~~method of depreciation.~~